

JUL 11 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

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U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE DANIEL HERNANDEZ-  
SANCHEZ, aka Jose Daniel Hernandez,  
Daniel Hernandez, Jose Daniel Sanchez,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-71418

Agency No. A77-100-131

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 1, 2008<sup>\*\*</sup>

Before: WALLACE, HAWKINS and THOMAS, Circuit Judges.

Jose Daniel Hernandez-Sanchez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

from an immigration judge's decision pretermittting his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1107 (9th Cir. 2003), and we grant the petition for review and remand.

An intervening change in the law requires us to remand. The BIA concluded that Hernandez-Sanchez could not rely on the residency period of his parents while he was a minor to establish that he had "resided in the United States continuously for 7 years after having been admitted in any status." 8 U.S.C. § 1229b(a)(2). The BIA, however, did not have the benefit of our decision in *Cuevas-Gaspar v. Gonzales*, 430 F.3d 1013 (9th Cir. 2005), which held that for the purpose of establishing seven years of continuous residence a parent's admission in permanent resident status is imputed to the parent's unemancipated minor children residing with the parent. *Id.* at 1029. We therefore remand for the BIA to reconsider Hernandez-Sanchez's eligibility for relief.

**PETITION FOR REVIEW GRANTED; REMANDED.**